

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of )  
 )  
Petition for Declaratory Ruling to Clarify ) WT Docket No. 11-35  
Provisions of Section 332(c)(3)(A) and to Declare )  
that Connecticut’s CPCN Requirement is Entry )  
Regulation )

ORDER

Adopted: June 6, 2011

Released: June 6, 2011

By the Senior Deputy Chief, Wireless Telecommunications Bureau:

1. On December 3, 2010, CTIA-The Wireless Association (CTIA) filed a Petition for Declaratory Ruling (Petition) asking the Commission to clarify “the scope of Section 332(c)(3)(A)’s ban on state and local entry regulation.”<sup>1</sup> CTIA stated that the Connecticut Department of Public Utility Control (Connecticut PUC) “ordered that wireless providers must apply for and obtain a Certificate of Public Convenience and Necessity (CPCN) from the [Connecticut PUC] before they can request permission to access public rights-of-way.”<sup>2</sup> CTIA asked the Commission to declare that Connecticut’s CPCN requirement is a form of entry regulation that is prohibited by Section 332(c)(3)(A).<sup>3</sup> On February 25, 2011, the Wireless Telecommunications Bureau (Bureau) issued a Public Notice seeking comment on the Petition.<sup>4</sup> On April 5, 2011, the Bureau issued a Public Notice extending the period to file comments and reply comments to June 10, 2011, and July 11, 2011, respectively.<sup>5</sup>

2. On June 2, 2011, CTIA filed a “Motion to Withdraw Petition for Declaratory Ruling.”<sup>6</sup> CTIA states that the Connecticut PUC issued a decision “indicating that it ‘has reconsidered [the CPCN] requirement and will not require CMRS providers to obtain a CPCN in order to access the public rights of way.’”<sup>7</sup> CTIA requests that it be granted leave to withdraw its Petition because the Connecticut PUC’s

<sup>1</sup> In the Matter of Petition of CTIA-The Wireless Association for Declaratory Ruling to Clarify Provisions of Section 332(c)(3)(A) and to Declare that Connecticut’s CPCN Requirement is Entry Regulation, filed Dec. 3, 2010 at i (Petition).

<sup>2</sup> *Id.*

<sup>3</sup> See 47 U.S.C. § 332(c)(3)(A).

<sup>4</sup> “Wireless Telecommunications Bureau Seeks Comment on Petition for Declaratory Ruling Asking to Clarify the Scope of Section 332(c)(3)(A),” WT Docket No. 11-35, *Public Notice*, 26 FCC Rcd 2105 (WTB 2011).

<sup>5</sup> “Wireless Telecommunications Bureau Extends Period for Filing Comments and Reply Comments on Petition for Declaratory Ruling Asking to Clarify the Scope of Section 332(c)(3)(A),” WT Docket No. 11-35, *Public Notice*, DA 11-613 (WTB Apr. 5, 2011).

<sup>6</sup> Motion to Withdraw Petition for Declaratory Ruling, WT Docket No. 11-35, filed June 2, 2011.

<sup>7</sup> *Id.* at 2 (footnote omitted; quoting from and citing to *DPUC Investigation into the Deployment of Distributed Antenna System (DAS) in the Public Rights of Way in Connecticut – CPCN Requirement*, Connecticut DPUC, Docket No. 08-06-19RE01 (Apr. 27, 2011)).

decision “substantially addressed CTIA’s primary concerns.”<sup>8</sup> In view of the foregoing, we grant CTIA’s motion.

3. Accordingly, IT IS ORDERED that CTIA’s Motion to Withdraw Petition for Declaratory Ruling IS GRANTED. IT IS FURTHER ORDERED that the Petition for Declaratory Ruling filed by CTIA is DISMISSED.

4. This action is taken pursuant to authority delegated by Section 0.331 of the Commission’s rules.<sup>9</sup>

FEDERAL COMMUNICATIONS COMMISSION

James D. Schlichting  
Senior Deputy Chief, Wireless Telecommunications Bureau

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<sup>8</sup> *Id.*

<sup>9</sup> 47 C.F.R. § 0.331.